

**Allowability of Procurement Fees in
School Food Authority Contracts**

Purpose:

This instruction sets forth the policy regarding the allowability of procurement fees in School Meal Program contracts.

Scope:

Sponsors participating in the National School Lunch Program (NSLP) and/or the School Breakfast Program (SBP).

Description:

For contracts executed after the November 30, 2007, effective date of the final rule, discounts, rebates and applicable credits must be returned to the SFA's nonprofit school food service account. Therefore, any fee (including a procurement fee) that is directly tied to the amount of discounts, rebates, and applicable credits to be returned to the SFA is an unallowable nonprofit school food service account cost, as it undermines the intent of the new regulation. A fee structured in this way is clearly intended to return some or all of the discounts, rebates, and applicable credits to the company with whom the SFA has contracted for services rather than to ensure that they accrue to the nonprofit school food service account. This is true whether the fee is set forth in the solicitation/contract or not.

SFAs may, however, develop solicitations in a way that allows for management and/or administrative fees that include fees for procurement services. The procurement fee could be a separate fee or part of another contract fee, as long as it remains fixed.

For contracts that pre-date the effective date of the final procurement regulation, procurement fees are allowable, even if they are tied directly to the amount of discounts, rebates, and applicable credits to be returned to an SFA, as long as they were properly considered in the solicitation document.

SOURCE: FNS PROCUREMENT RULE OCTOBER 2007, MEMO MARCH 2008.